

**DRAFT Proposed Stormwater Management Regulations for the
Town of Brewster, Massachusetts**

Stormwater Management Regulations are proposed in conjunction with a Stormwater Management Bylaw as part of Phase III of the Town's Integrated Water Resource Management Plan (IWRMP). These draft regulations have been updated to reflect input from the Planning Board related to single and two-family residential projects, road repaving/grading, applicability thresholds, and the new requirements of the DRAFT 2014 MS4 Stormwater Permit. These regulations assume administration by the Planning Board. To streamline the review process, the Conservation Commission will be the permit authority for projects within wetland jurisdiction.

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1.0 PURPOSE

The purpose of these Regulations is to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; and conserve groundwater supplies by establishing minimum stormwater management requirements and procedures for new development, redevelopment, and other land disturbing activities as more specifically addressed in the Stormwater Management Bylaw of the Town of Brewster.

2.0 DEFINITIONS

The following terms are defined for the purposes of this Bylaw:

ALTER: Any activity, which will measurably change the ability of a ground surface area to absorb water, increase polluted runoff, and/or change the existing surface drainage patterns. The term “alter” shall include “alteration,” “disturb” and “disturbance,” and “clearing.”

APPLICANT: A property owner or agent of a property owner who has filed an application for a Stormwater Management Permit (SMP).

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

CERTIFICATE OF COMPLETION (COC): A document issued by the Planning Board after all construction activities have been completed which states that all conditions of an issued SMP have been met and that a project has been completed in compliance with the conditions set forth in a SMP.

CONVEYANCE: Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPER: A person who undertakes or proposes to undertake development activities.

DISTURBANCE: Any activity that causes a temporary or permanent change in the position or location of soil, vegetation, impervious cover, or other land surface that exposes soils to potential erosion or otherwise alters surface drainage conditions.

DIRECT DISCHARGE: Any pipe, open channel, or concentrated flow path where stormwater runoff is conveyed directly to a waterbody without prior stormwater treatment or volume reduction.

DIRECTLY CONNECTED IMPERVIOUS AREA: The portion of on-site impervious area with a direct hydraulic connection to Brewster’s MS4 or a waterbody via continuous paved surfaces, gutters, drain pipes, or other conventional conveyance and detention structures that do not reduce runoff volume. Includes terms such as “effective” impervious cover.

1 DRAINAGE EASEMENT: A legal right granted by a land owner to a grantee allowing the use
2 of private land for stormwater management purposes.

3 EROSION CONTROL: The prevention or reduction of the movement of soil particles or rock
4 fragments due to stormwater runoff.

5 EROSION AND SEDIMENT CONTROL PLAN: A plan that shows the location and
6 construction detail(s) of the erosion and sediment reduction controls to be utilized for a
7 construction site.

8 FLOODING: A local and temporary inundation or a rise in the surface of a body of water, such
9 that it covers land not usually under water.

10 GRADING: Changing the level or shape of the ground surface.

11 GROUNDWATER: All water beneath any land surface including water in the soil and bedrock
12 beneath water bodies.

13 HOTSPOT: Land uses or activities with higher potential for pollutant loading, such as auto
14 salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high
15 intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and
16 loading areas of hazardous substances, or marinas.

17 IMPERVIOUS COVER: Any material or structure on or above the ground that prevents water
18 from infiltrating through the underlying soil. Impervious cover includes, without limitation,
19 paved parking lots, roads, sidewalks, driveways, patios, roof tops, and swimming pools. Gravel
20 and dirt surfaced roads and parking areas that can become compacted by vehicles and heavy
21 equipment are considered impervious. Permeable pavers and porous pavements designed to
22 prevent compaction are not considered impervious. The term “impervious cover” shall include
23 “impervious area” and “impervious surface.”

24 INFILTRATION: The act of conveying surface water into the ground to permit groundwater
25 recharge and the reduction of surface runoff from a project site.

26 LOW IMPACT DEVELOPMENT (LID): An approach to land development design and
27 stormwater management that attempts to mimic the natural hydrology of the site by avoiding,
28 reducing and mitigating impacts with natural, non-structural and structural measures.

29 MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS (MSWMS): The latest
30 version as may be amended of the Stormwater Management Standards and accompanying
31 Stormwater Handbook issued by the Massachusetts Department of Environmental Protection
32 pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the
33 Massachusetts Clean Waters Act, M.G.L. c. 21, §§26-53. The Stormwater Management
34 Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k)
35 and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

36 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM
37 DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying
38 stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm
39 drain, pumping facility, retention or detention basin, natural or man-made or altered drainage
40 channel, reservoir, and other drainage structure that together comprise the storm drainage system
41 owned or operated by the Town of Brewster.

1 NEW DEVELOPMENT: Any construction or land disturbance on a lot, or portion of a lot, that is
2 currently in a vegetated state.

3 NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall,
4 snowmelt, or other method of pollutant transport moving over and through the ground. As the
5 runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing
6 them into water resource areas.

7 OPERATION AND MAINTENANCE PLAN (“O&M Plan”): A plan that defines the functional,
8 financial and organizational mechanisms for the ongoing operation and maintenance of a
9 stormwater management system to insure that it continues to function as designed.

10 OWNER: A person with a legal or equitable interest in a property.

11 PERSON: Any individual, group of individuals, association, partnership, corporation, company,
12 business organization, trust, estate, the Commonwealth or political subdivision thereof to the
13 extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or
14 body, the Town of Brewster, and any other legal entity, its legal representatives, agents, or
15 assigns.

16 PRE-DEVELOPMENT: The conditions that exist prior to the proposed development. Where
17 phased development or plan approval occurs (e.g., preliminary grading, roads, and utilities, etc.),
18 the existing conditions at the time prior to the first plan submission shall establish pre-
19 development conditions.

20 POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited
21 to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which
22 pollutants are or may be discharged.

23 POST-CONSTRUCTION or POST-DEVELOPMENT: The conditions that reasonably may be
24 expected or anticipated to exist after completion of the proposed development activity in
25 accordance with approved plans on a specific site or tract of land. Post-development refers to the
26 phase of a new development or redevelopment project after completion, and does not refer to the
27 construction phase of a project.

28 RECHARGE: The replenishment of groundwater reserves.

29 RECORD DRAWING: Drawings that completely record and document applicable aspects and
30 features of the conditions of a project following construction using Stormwater Management
31 Plans derived from a Stormwater Management Permit.

32 REDEVELOPMENT: Any construction, alteration, improvement, repaving, or resurfacing on a
33 site that contains impervious cover, provided the activity does not increase net impervious cover.

34 RESOURCE AREA: Any area protected under including without limitation: the Massachusetts
35 Wetlands Protection Act, Massachusetts Rivers Act, or Town of Brewster Wetlands Protection
36 Bylaw.

37 REVIEWING AGENT: Any Town employee, board or agent delegated in writing by the
38 Planning Board to administer, implement and enforce the Stormwater Management Bylaw.

39 ROAD IMPROVEMENTS: For the purposes of this bylaw, work on existing roads that trigger
40 stormwater management compliance include resurfacing projects when the sub-base is
41 intersected, the road is being widened, or when the project includes direct drainage to a beach,

pond, or wetland. Re-grading of unpaved roads does not trigger compliance with stormwater standards unless the road is being widened, or if it includes a direct discharge to a beach, pond, or wetland.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface or other surface (e.g., rooftop).

SEDIMENTATION: A process of depositing material that has been suspended and transported in water.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance (e.g. a 4:1 slope). It can also be expressed as a percentage of the vertical rise divided by the horizontal distance (e.g. a twenty-five (25) percent slope).

SITE: The entire parcel of land being developed, redeveloped, or otherwise altered or disturbed.

STORMWATER MANAGEMENT PRACTICE: Engineered structures and non-structural (e.g., site design, vegetation) measures used to control discharge volumes, manage peak flow rates, filter, infiltrate, reuse, or prevent pollutants from coming into contact with stormwater.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Planning Board, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

STOP WORK ORDER: An order issued which requires that all construction activity or land disturbance on a site be stopped.

TSS: Total Suspended Solids.

Terms not defined shall be construed according to their customary and usual meaning, unless the context indicates a special or technical meaning. Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; and the word "shall" is mandatory and not directory. Additional definitions may be adopted by separate regulation.

3.0 AUTHORITY

A. The Regulations contained herein have been adopted by the Planning Board in accordance with the Town of Brewster Stormwater Management Bylaw.

B. These Stormwater Regulations may be periodically amended by the Planning Board in accordance with the procedures outlined in §999-4 of the Town of Brewster Stormwater Management Bylaw.

4.0 ADMINISTRATION

The Planning Board shall administer these Regulations for applicable projects or activities unless those projects or activities are within the jurisdiction of the Conservation Commission, in which case, the entire project and all related projects required as a result of the activity proposed by the applicant shall be designated to the jurisdiction of the Conservation Commission without further action needed by the Planning Board. The specific application submission requirements, public

1 notices, and fee requirements of the Conservation Commission shall govern. The Planning
2 Board reserves the right to retain review and approval authority for any application.

3 For single and two-family residential projects that do not require a Stormwater Management
4 Permit (SMP), these regulations shall be administered through Building Permits.

6 **5.0 APPLICABILITY**

7 These Regulations apply to all activities subject to § 999-5, Applicability, of the Stormwater
8 Management Bylaw. Projects and/or activities that are not currently under the regulatory
9 jurisdiction of any of the Town of Brewster boards, commissions or departments, yet are still
10 subject the Town of Brewster Stormwater Management Bylaw, must obtain a Stormwater
11 Management Permit (SMP) from the Planning Board or Conservation Commission in accordance
12 with the permit procedures and requirements defined in §6.0 and §7.0 of these Regulations.

13 No work may commence without written approval of the Planning Board, Conservation
14 Commission, or Building Inspector, as applicable, confirming that the project or activity is in
15 compliance with the performance standards and design criteria in §8.0 of these Regulations.

17 **6.0 PROCEDURES**

18 A. A Stormwater Management Permit (SMP) is required prior to any land disturbance
19 activity for projects that meet or exceed the thresholds for a SMP as outlined in the
20 Stormwater Management Bylaw §999-5.

21 B. Single-family and two-family residential projects requiring stormwater management do
22 not need to obtain a SMP; however, documentation of stormwater controls must be
23 provided as part of the Building Permit, or as part of an approval from the Building
24 Inspector where a Building Permit is not required.

25 C. A land owner or lessee shall not receive any of the building, clearing, grading or other
26 land development permits required for land disturbing activities without first meeting the
27 requirements of the Bylaw and these Regulations.

28 D. SMP Filing Application

29 The applicant shall file with either the Planning Board or the Conservation Commission
30 (herein designated as the Review Board), an original and twelve (12) copies of a
31 completed application package for a SMP. While the applicant can be a representative,
32 the permittee must be the property owner. The applicant must certify that the application
33 is complete. The SMP application package may be submitted in two stages — an
34 optional Concept Plan and the required Final Plan.

35 Review of the Concept Plan is held in conjunction with Staff Review when Staff Review
36 is required. If other portions of the project fall are subject to Staff Review, then all
37 project components including the Stormwater Management Concept Plan are reviewed
38 simultaneously. Disapproval by Staff Review of a Concept Plan shall not preclude the
39 applicant from proceeding with a Final Plan, nor shall approval of a Concept Plan
40 necessitate approval of a Final Plan. An applicant may choose to skip the Concept Plan
41 step at his/her own discretion and proceed directly with a Final Plan application.

1 When Staff Review is not required, review of the Concept Plan shall be conducted by the
2 Planning Board or Conservation Commission.

3 The following are the application filing requirements:

4 1. For the Concept Plan (optional):

- 5 a. A completed current SMP Application Form (provided in Appendix B and also
6 available from the Planning Board office or the Town of Brewster website) with
7 original signatures of all owners; and
- 8 b. Stormwater Management Concept Plan and supporting information in accordance
9 with the current “Checklist for Stormwater Management Concept Plan” as
10 provided in Appendix C.

11 2. For the Final Plan and SMP Application:

- 12 a. A completed current SMP Application Form (provided in Appendix B and also
13 available from the Planning Board office or the Town of Brewster website) with
14 original signatures of all owners;
- 15 b. Stormwater Management Final Plan and supporting information in accordance
16 with the current “Checklist for Final Stormwater Management Plan” as provided
17 in Appendix C;
- 18 c. Erosion and Sediment Control Plan in accordance with the current “Checklist for
19 Erosion and Sediment Control Plan” as provided in Appendix D;
- 20 d. Operation and Maintenance Plan in accordance the current “Requirements for
21 Operations and Maintenance Plan” as provided in Appendix E; and
- 22 e. Payment of the Application and Consultant Services Fees pursuant to Section
23 6.0F of these Stormwater Management Regulations.

24 E. Entry

25 Filing an application for a SMP grants the Review Board permission to enter the site
26 throughout the term of the permit to verify the information in the application and to
27 inspect for compliance with the resulting permit.

28 F. Fees

29 The Review Board shall obtain with each submission an Application Fee to cover
30 expenses connected with the review of the SMP and a technical review fee sufficient to
31 cover professional review services for the project, if needed. Applicants must pay review
32 fees before the review process may begin.

33 1. Rules

- 34 a. Application fees are payable at the time of application and are non-refundable.
- 35 b. The Review Board shall calculate application fees in accordance with the fee
36 schedule below.
- 37 c. These application fees are in addition to any other local or state fees that may be
38 charged under any other law, or local bylaw or regulation.

- 1 d. The fee schedule may be revised from time to time.
- 2 2. Application Fees
- 3 a. Concept Plan: There is no application fee for the Concept Plan.
- 4 b. Final Plan: A non-refundable application fee of \$400.00 shall be due and payable
- 5 to the Town of Brewster at the time an application is filed.
- 6 c. Revised Plan: A non-refundable fee of \$300.00 shall be due and payable to the
- 7 Town of Brewster at the time any plan revisions beyond second submission (i.e.,
- 8 one plan revision shall be included in the initial application fee).
- 9 3. Consultant Services Fees
- 10 a. In addition to the above fees, the Review Board is authorized to require an
- 11 applicant to pay a fee for the reasonable costs and expenses for specific expert
- 12 engineering and other consultant services deemed necessary for reviewing the
- 13 application and for inspections of stormwater management systems during
- 14 construction and post-construction. Payment may be required at any point in the
- 15 deliberations prior to a final decision.
- 16 b. Such fee shall be held in escrow, to be used to engage independent consultants
- 17 should the Review Board determine this to be necessary, based on the
- 18 characteristics or complexity of the issues raised by the application. Such fee
- 19 shall be governed and administered in accordance with M.G.L.,c.44, § 53G or §
- 20 53E1/2.
- 21 c. The Review Board may request additional Consultant Service Fees if the
- 22 necessary review or inspection requires a larger expenditure than originally
- 23 anticipated, or if new information requires additional consultant services. Failure
- 24 by the applicant to pay the Consultant Services Fee specified by the Review
- 25 Board within ten (10) business days of the request for payment shall be cause for
- 26 the Review Board to determine that the application is administratively
- 27 incomplete.
- 28 d. The services for which a fee may be utilized include, but are not limited to,
- 29 resource area, hydrogeologic and drainage analysis; analysis of impacts on
- 30 regulated resource areas; general compliance with the stormwater management
- 31 requirements of these stormwater regulations; presentation at hearings; and
- 32 construction and post-construction inspection services.
- 33 e. The consultant shall be chosen by, and report only to, the Review Board. The
- 34 Review Board shall give written notice to the applicant of the selection of an
- 35 outside consultant, which notice shall state the identity of the consultant, the
- 36 amount of the fee to be charged to the applicant, and a request for payment of said
- 37 fee in its entirety. Such notice shall be deemed to have been given on the date it
- 38 is mailed or delivered. No such costs or expenses shall be incurred by the
- 39 applicant if the application or request is withdrawn within five (5) days of the date
- 40 notice is given. The Consultant Services Fee must be received in its entirety prior
- 41 to the initiation of consulting services.

- 1 f. Subject to applicable law, the Review Board shall return any unused portion of
2 any fees collected to the applicant within forty-five (45) calendar days of a
3 written request by the applicant, unless the Review Board decides in a public
4 meeting that other action is necessary, or if the Town intends to conduct
5 inspections or maintenance of a private stormwater facility.

6 4. Revision of Fee Schedules and Regulations Governing Fees

- 7 a. The Review Board may review and revise its Regulations and fee schedules
8 periodically as it sees fit.
9 b. Amendments shall be preceded by an advertised public hearing.
10 c. A copy of any amendment will be filed with the Town Clerk within ten (10)
11 calendar days after final action is taken.

12 G. Public Hearings

13 The Review Board shall hold a public hearing for projects or activities that require
14 issuance of a SMP, in accordance with the Board's own regulations and procedures. For
15 projects or activities that require issuance of a SMP in addition to other approvals or
16 permits, the Review Board shall hold one public hearing on all jurisdictional project
17 aspects in accordance with its own regulations and procedures.

18 H. Actions

- 19 1. The Review Board's action on a Concept Plan or Final Plan for SMP application,
20 rendered in writing, shall consist of one of the following:
21 a. Approval based upon determination that the proposed concept plan the project
22 meets the Standards in §8.0 of these Regulations or adequately protects water
23 resources, as set forth in the Bylaw and these Regulations. Concept Plan approval
24 shall not obligate the Review Board to approve the Final Plan application;
25 b. Approval subject to any conditions, modifications, or restrictions required by the
26 Review Board to ensure that the project meets the Standards in §7.0 of these
27 Regulations or adequately protects water resources, as set forth in the Bylaw and
28 these Regulations. Concept Plan approval with modifications or restrictions shall
29 not obligate the Review Board to approve the Final Plan application; or
30 c. Disapproval based upon a determination that the proposed plan, as submitted,
31 does not meet the Standards in §7.0 of these Regulations or adequately protect
32 water resources, as set forth in the Bylaw and these Regulations.

33 I. Deadline for Action

34 Failure of the Review Board to take final action upon an application within ninety (90)
35 calendar days of closing the public hearing shall be deemed to be approval of said
36 application, unless extension of said deadline date is mutually agreed upon in writing by
37 the Review Board and the applicant. Upon certification by the Town Clerk that the
38 allowed time has passed without Review Board action, the Review Board must issue a
39 SMP.

1 *Does there need to be a different timeframe for Conservation Commission review in*
2 *accordance with Conservation Commission standards?*

3 J. Plan Modifications

4 The permittee must notify the Review Board in writing of any drainage change or
5 alteration in the system authorized in a SMP before any change or alteration is made. If
6 the Review Board determines that the change or alteration is significant, based on the
7 Stormwater Management Standards in §7.0 of these Regulations and accepted
8 construction practices, the Review Board may require that an amended application be
9 filed. No work associated with the proposed modification shall be performed until the
10 Review Board approves, by majority vote, the modifications at a public meeting and
11 notifies the applicant in writing as such.

12 K. Appeals of Actions of the Review Board

13 A decision of the Review Board on a SMP shall be final. Further relief of a decision by
14 the Review Board made under these Regulations shall be reviewable in the Superior
15 Court in an action filed within twenty (20) calendar days thereof, in accordance with
16 M.G.L. Ch 249. § 4. An appeal of an action by a board, commission or department that
17 has current regulatory authority for a project and/or activity shall be conducted under the
18 applicable appeal provisions of said board, commission and/or department of the Town of
19 Brewster. Such an appeal shall result in revocation of the written approval as described
20 under §6.0H) of these Regulations, until such time as the appeal process of the applicable
21 board, commission and/or department has been resolved. No project activities shall
22 commence until subsequent written approval has been granted.

23 L. Project Completion

24 The Review Board has the authority to require, at the completion of the project, the
25 submission of Record Drawing(s) of all structural controls and treatment best
26 management practices (BMPs) required for the site as required in §8.0 as well as other
27 project completion documentation requirements of §12.0 of these Regulations. The
28 Review Board will issue a letter certifying completion upon review and approval of the
29 final inspection reports and/or upon otherwise determining that all work of the permit has
30 been satisfactorily completed in conformance with the Bylaw.

31
32 **7.0 STORM WATER MANAGEMENT PERMIT (SMP) REQUIREMENTS**

33 Applications for a SMP shall include the elements listed below. All items must be submitted at
34 the time of filing to be considered a complete application.

35 A. Erosion and Sediment Control (ESC) Plan

- 36 1. An ESC Plan is required at the time of application for all SMP projects. The plan
37 shall be designed to ensure compliance with Section 8(A) of these Regulations, and if
38 applicable, the NPDES General Permit for Storm Water Discharges from
39 Construction Activities. In addition, the plan shall ensure that the Massachusetts
40 Surface Water Quality Standards (314 CMR 4.00) are met for all seasons.

2. If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit, then the permittee is required to submit a complete copy of the SWPPP (including the signed Notice of Intent and approval letter) before development.
3. The ESC Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. This plan shall be in accordance with the criteria established in these Stormwater Management Regulations.
4. For larger developments where construction phasing occurs, the ESC Plan shall be updated as needed based on changing conditions at the site.
5. Required contents of the ESC Plan are provided in Appendix F of these Regulations.
6. The ESC Plan shall be kept on-site during construction, and accessible to the Review Board, if requested.

B. Stormwater Management Plan

1. The Stormwater Management Plan shall contain sufficient information for the Reviewing Board to evaluate the environmental impact, effectiveness, and acceptability of the post-construction stormwater measures proposed by the applicant for reducing adverse impacts from stormwater runoff.
2. The plan shall include each item specified in the current “Checklist for Final Stormwater Management Plan” as provided in Appendix D of these Regulations.
3. This plan shall be in accordance with the criteria established in §8(B) of these Regulations; and
4. The plan must be submitted with the stamps and signatures of a professional engineer and a professional land surveyor, both of whom must be licensed in the Commonwealth of Massachusetts.

C. Operation and Maintenance Plan

1. An Operation and Maintenance Plan (O&M Plan) is required at the time of application for all SMPs. The O&M Plan shall be designed to ensure compliance with the SMP and these Regulations and to ensure that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system.
2. The O&M Plan shall include each item, as applicable, specified in the current “Checklist for Operations and Maintenance Plan” as provided in Appendix E of these Regulations and shall remain on file with the Review Board. To ensure that all BMPs continue to function as designed, a final O&M Plan shall be submitted prior to issuance of a Certificate of Completion and reflect any modifications made during the permitting process and the site specific conditions.
3. The O&M Plan shall apply to the entire project site, not just the area of land being altered.

1 D. Illicit Connection and Discharge Elimination Statement

2 The Final SMP Application must include a statement or other documentation
3 demonstrating compliance with the Town of Brewster Chapter 115, Illicit Connection and
4 Discharges Bylaw.

5
6 **8.0 PERFORMANCE STANDARDS AND DESIGN CRITERIA**

7 The following performance standards and design criteria shall be met or exceeded for projects
8 seeking a SMP.

9 A. Erosion and Sediment Control Performance Standards and Design Criteria

10 At a minimum, the ESC Plan shall comply with the performance standards of the most
11 recent version of the Massachusetts Erosion and Sedimentation Control Guidelines for
12 Urban and Suburban Areas: A Guide for Planners, Designers, and Municipal Officials
13 (“Guidelines”) published by the Massachusetts Executive Office of Energy and
14 Environmental Affairs (EEA), as well as the general construction performance standards
15 and design criteria in §8.0(A)(1-17). Where there is a conflict between these Regulations
16 and the Guidelines, the more stringent standards and criteria shall apply.

- 17 1. Existing site conditions, including soils, topography, hydrology, and vegetative cover
18 (including but not limited to existing trees and groundcover) shall be preserved to the
19 maximum extent practicable. Clearing and grading increase the velocity and volume
20 of runoff, and associated sedimentation, and therefore, shall only be performed within
21 areas necessary to build the project, including but not limited to: structures, utilities,
22 roads, recreational amenities, post-construction stormwater management facilities,
23 and related infrastructure.
- 24 2. The area of alteration shall be minimized, and sensitive areas, including wetland areas
25 and buffers, shall be protected. Prior to any land disturbance activities commencing
26 on the site, the developer shall physically mark limits of no land alteration on the site
27 with tape, signs, erosion and sediment control measures, or fencing, so that areas to
28 be protected are visible to workers. The physical markers shall be inspected daily.
- 29 3. Perimeter control measures (e.g., silt fences, filter socks, stabilized construction
30 entrances) shall be installed prior to extensive clearing and grading and remaining
31 erosion control measures will be installed to stabilize and protect the site during
32 construction. Where practicable, a phased-clearing approach should be used to
33 reduce the extent of erosion and sediment control measures required at one time.
- 34 4. The angle of graded slopes and fills shall be no greater than 2:1. Slopes greater than
35 3:1 shall be protected from erosion by limiting clearing of these areas or, where
36 grading is unavoidable, by preventing upland runoff from flowing down a steep slope
37 and through immediate stabilization to prevent gullying.
- 38 5. All construction shall be properly sequenced to reduce project impacts, and avoid
39 compacting soil during construction, particularly in locations identified for
40 stormwater infiltration practices.

- 1 6. Exposed soils should be temporarily stabilized within seven (7) days of clearing or
2 inactivity where non-vegetative stabilization techniques are preferred and within
3 fourteen (14) days of clearing or inactivity where seeding is used for establishing
4 vegetative cover. Slopes left exposed must immediately be stabilized in conjunction
5 with other measures sufficient to prevent erosion.
- 6 7. Erosion and sediment control measures shall be installed and maintained in
7 accordance with the manufacturer's specifications and good engineering practices to
8 ensure they perform as intended.
- 9 8. Erosion and sediment control measures shall be visually inspected on a daily basis to
10 ensure that they are functioning properly. Formal, documented inspections must be
11 conducted in accordance with §10.0B of these Regulations.
- 12 9. Temporary sediment trapping and settling devices, if proposed, shall be designed to
13 retain one inch of stormwater runoff from the contributing drainage area. Basins and
14 traps shall not be converted to permanent stormwater management practices designed
15 for infiltration unless the infiltration capacity of the underlying soils will be
16 adequately protected from sedimentation and compaction during construction
17 activities, accumulated surface and subsurface sediments are removed prior to
18 conversion, and that permanent practices are over-excavated and backfilled with new
19 engineered media to ensure proper infiltration where necessary.
- 20 10. An adequate supply of additional erosion and sediment control materials shall be kept
21 on site to repair or replace failing erosion and sediment control measures, including
22 replacement erosion and sediment control blanket and at least 100 feet of silt fence,
23 silt sock or equivalent.
- 24 11. On and off-site material storage areas, including construction and waste materials,
25 shall be properly protected and managed.
- 26 12. Soil stockpiles must be located outside of jurisdictional wetland areas, including
27 buffer areas, in areas where they will not disturb other sensitive resources, and at a
28 sufficient distance from steep slopes to protect sensitive resources from sedimentation
29 to the greatest extent practicable. Soil stockpiles must be stabilized or covered at the
30 end of each workday and be surrounded by appropriate sediment barriers. Stockpile
31 side slopes shall not be greater than 2:1.
- 32 13. Total truck trips on and off site should be minimized to the greatest extent
33 practicable. Any sediment tracked off-site during construction shall be removed on a
34 daily basis.
- 35 14. Projects must comply with applicable Federal, State, and local laws and regulations
36 including waste disposal, sanitary sewer or septic system regulations, and air quality
37 requirements, including dust and debris control.
- 38 15. Any area of bare earth exposed through building or site development or demolition
39 must be permanently stabilized through replanting, paving or other means of
40 eliminating wind or water erosion prior to building occupancy or project closeout.
41 Permanent seeding shall be undertaken in the spring from March through May, and in
42 late summer and early fall from August to October 15. During the peak summer
43 months and in the fall after October 15, when seeding is found to be impractical,

- 1 appropriate temporary mulch shall be applied. Permanent seeding may be undertaken
2 during the summer if installation plans provide for adequate mulching and watering.
- 3 16. Temporary erosion and sediment control measures shall not be removed until exposed
4 soils in all contributory drainage areas are permanently stabilized.
- 5 17. All temporary erosion and sediment control measures shall be removed after final site
6 stabilization and once permanent stormwater management practices are in place.
7 Disturbed soil areas resulting from the removal of temporary measures shall be
8 stabilized immediately.

9 B. Post-Development Stormwater Management Performance Standards and Design Criteria

10 At a minimum, the Stormwater Management Plan shall comply with the most recent
11 version of MSWMS, the Town's MS4 Permit, as well as the performance standards
12 provided in §8(B)(1-6). Where there is a conflict between these requirements, the more
13 stringent shall apply.

- 14 1. No Unmanaged Discharges – All stormwater runoff generated from land development
15 and land use conversion activities shall not cause erosion to or discharge unmanaged
16 stormwater runoff directly to, a wetland, local waterbody, municipal drainage system,
17 or abutting property. The term, "management" used here refers to the remaining
18 performance standards.
- 19 2. Site Design Criteria – The use of Low Impact Development (LID) measures is
20 required to the maximum extent practicable for new development in order to mimic
21 natural hydrology by minimizing clearing and grading, promoting recharge, reducing
22 runoff volumes, and minimizing reliance on structural stormwater management
23 measures. The Site Design Criteria require that the site planning process shall be
24 documented and shall include the following steps:
- 25 a. Identify and map the critical resources at the site as listed in the Stormwater
26 Management Plan Checklist (Appendix D).
- 27 b. Delineate potential building envelopes avoiding critical resource areas and
28 regulated buffer zones;
- 29 c. Document efforts to work with the natural topography on-site to minimize
30 clearing and grading. Include cut and fill calculations and a discussion of re-using
31 any topsoil on-site as applicable;
- 32 d. Document area and percent of natural open space provided on-site, which does
33 not include areas that must be protected in accordance with federal, state or local
34 laws or regulations (e.g., Massachusetts Wetlands Protection Act);
- 35 e. Develop methods to minimize and disconnect impervious surfaces and document
36 percent of directly connected impervious area (DCIA) proposed on-site; and
- 37 f. Document how each of the applicable Site Design Features listed in the
38 Stormwater Management Plan Checklist (Appendix D) were considered and
39 incorporated into the site design, as practicable.
- 40 3. Recharge and Water Quality

- 1
- 2 a. Stormwater management systems on project sites shall be designed to either:
- 3 i. Retain the first one inch of runoff from all impervious surfaces on site; or
- 4 ii. Provide the level of pollutant removal equal to or greater than the level of
- 5 pollutant removal provided by the use of biofiltration on the first one inch of
- 6 runoff from all impervious cover on site. This standard shall be met through a
- 7 combination of runoff reduction practices and calculated consistently with
- 8 EPA Region 1's BMP Performance Extrapolation Tool. BMPs shall be
- 9 designed, constructed, and maintained according to the specific performance
- 10 criteria outlined in the MSWMS.
- 11 b. For redevelopment projects where meeting the requirements under §8(B)(3)(a)
- 12 for existing impervious cover presents a clear hardship, the Review Board may
- 13 allow the applicant to comply with one of the following, less stringent standards
- 14 for the existing impervious areas:
- 15 i. Reduce the site impervious cover by forty (40) percent from existing
- 16 conditions;
- 17 ii. Where site conditions prevent a reduction in impervious cover, implement
- 18 stormwater controls that meet §8(B)(3)(a) standards for at least forty (40)
- 19 percent of the site's impervious cover;
- 20 iii. Implement a combination of impervious cover reduction and area treated with
- 21 stormwater controls that shall equal or exceed forty (40) percent of the site's
- 22 impervious cover; or
- 23 iv. Where on-site options are infeasible, off-site improvements that achieve these
- 24 goals may be implemented to comply with the requirements of (i), (ii) or (iii)
- 25 above.
- 26 New impervious cover created at a redevelopment sites is considered new
- 27 development and must comply with §8(B)(3)(a).
- 28 c. Infiltration BMPs shall not be used on any portion of a site designated as a
- 29 stormwater pollution hotspot or in an area with documentation of prior
- 30 contaminated soils.
- 31 d. Stormwater discharges to critical areas with sensitive resources, or impaired
- 32 waters including, but not limited to, those with Total Maximum Daily Loads
- 33 (TMDLs), may be subject to additional design criteria, such as enhanced nutrient
- 34 removal or recharge. The Review Board may designate critical areas on a case-
- 35 by-case basis, including:
- 36 i. Sites subject to the Town of Brewster Water Quality Protection Bylaw shall
- 37 be required to recharge all runoff from impervious surfaces and/or direct
- 38 runoff to a pervious area, may be subject to pretreatment requirements, and
- 39 may be required to use pre-approved BMPs.

- 1 ii. Development and redevelopment within a Zone I, Zone II and/or the DCPC
2 area shall also meet a 5 ppm total nitrogen loading standard per the Town of
3 Brewster Water Quality Protection Bylaw.
- 4 iii. In nitrogen impaired watersheds, BMPs should be designed for enhanced
5 nitrogen removal. Leaching catch basins should incorporate pre-treatment in
6 order to improve nitrogen removal and reduce maintenance burden.
- 7 e. For other structural stormwater controls not included in the MSWMS, or for
8 which pollutant removal rates have not been provided, the effectiveness and
9 pollutant removal of the structural control must be documented through prior
10 studies, literature reviews, or other means and receive approval from the Review
11 Board before being included in the design of a stormwater management system.
- 12 4. Channel Protection
- 13 a. Protection of channels from bank and bed erosion and degradation shall be
14 supplied by providing 24-hour extended detention of the post-development 1-
15 year, 24-hour return frequency storm event runoff volume.
- 16 b. Given practical limitations on minimum orifice or weir sizes, as well as flow and
17 receiving water considerations, the requirement shall be waived for:
- 18 i. Small sites (i.e., sites requiring less than 1-inch orifice);
- 19 ii. Sites with post-development discharges less than 2 cfs;
- 20 iii. Direct discharges to ponds and waters subject to tidal action where the
21 development area is less than five percent (5%) of the watershed area
22 upstream of the development site; and
- 23 iv. Indirect discharges to an existing drainage network with adequate capacity to
24 accommodate the flows from the site where the ultimate discharge is to ponds
25 or coastal bays.
- 26 5. Flooding Protection – Downstream flood, property, and public safety protection shall
27 be provided by attenuating the post-development peak discharge rates for the 10-year
28 and 100-year 24-hour return frequency storm events to the pre-development rates.
- 29 6. Conveyance Criteria – The proposed stormwater conveyance system shall, at
30 minimum, accommodate the runoff from a 25-year storm event. The discharge from
31 any stormwater facility must be conveyed through properly constructed water courses
32 to provide for non-erosive flows during all storm events. Rip-rap (or other approved
33 energy dissipaters) shall be placed at all flared-end sections, pipe outlets, overflow
34 weirs, drainage swales, and any other location at the discretion of the Review Board.
35 Rip-rap shall be sized such that the stones will be able to resist movement due to
36 discharge velocity.
- 37 a. If a closed drainage system is proposed, a catchbasin-to-manhole system is
38 required rather than a catchbasin-to-catchbasin system. Manholes shall be
39 provided at changes in direction and wherever there is a change in pipe size.
40 Catchbasins shall be located on both sides of the roadway on continuous grades at
41 intervals of not more than three hundred (300) feet, at low points, and at the

corners of intersecting streets. Intervals of less than three hundred (300) feet may be required on steep grades. The Review Board may ask for an inlet capacity analysis on a case-by-case basis.

- b. All drain lines to be connected to the municipal drain line shall be constructed by way of a drain manhole being installed between the existing drain line and the proposed drain line(s).

7. For stormwater facility sizing criteria, the basis for hydrologic and hydraulic evaluation of development sites are as follows:

- a. Impervious cover is measured from the site plan and includes any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Alternative surfaces (e.g., porous pavement, grass pavers, etc.) are encouraged for low-traffic sidewalks and parking lots, and these areas may be removed from the total impervious area calculations when designing the stormwater system for recharge and water quality criteria only. General design guidance is included in the MSWMS, but there is not one set of required design criteria since alternative paving technology is still evolving and improving. Thus, the applicant shall submit specifications for any proposed alternative surfaces, which shall be reviewed by the Review Board on a case-by-case basis.
- b. Off-site areas draining to the site shall be included in the hydrologic and hydraulic analyses.
- c. The models TR-55 and TR-20 (or approved equivalent) shall be used for sizing stormwater practices.
- d. The length of sheet flow used in the TR-55 method for time of concentration calculations is limited to no more than 100 feet for pre-development conditions and fifty (50) feet for post-development conditions.
- e. For purposes of computing runoff, all pervious lands in the site prior to development shall be assumed to be in good condition regardless of conditions existing at the time of computation.
- f. Detention time for the Channel Protection volume is defined as the center of mass of the inflow hydrograph and the center of mass of the outflow hydrograph.
- g. The Rational Method will be used for drainage conveyance calculations needed to size components of the selected drainage conveyance system.
- h. The specified design storms shall be defined as 24-hour, Type III distribution design storm events using the rainfall amounts specified for the Town of Brewster in the Northeast Regional Climate Center Extreme Precipitation estimates data provided via the Extreme Precipitation in New York and New England: An Interactive Web Tool for Extreme Precipitation Analysis (<http://precip.eas.cornell.edu/>), as amended.
- i. These stormwater management criteria shall apply to the land development as a whole. Individual lots in new developments shall not be considered separate land development projects, but rather the entire development shall be considered a

single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

C. Stormwater Standards for Single and Two-Family Residential Projects

Applicable single and two-family residential projects do not need to obtain a SMP, but are required to:

1. Comply with Erosion and Sediment Control performance standards of § 8.0(A).
2. Minimize unmanaged off-site runoff through a combination of site design and small structural practices, such as pavement reduction and disconnection, dry wells, rain gardens, and permeable pavers as described in the Single and Two-Family Residential Stormwater Management Guidelines (Appendix H).
3. Submit a sketch of proposed stormwater controls as part of the Building Permit process, or obtain approval from the Building Inspector.

9.0 CRITERIA FOR CONNECTIONS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

Criteria for connections to the municipal separate storm sewer system (MS4) shall be governed by Chapter 115, Illicit Connections and Discharges, of the Town of Brewster Code.

10.0 INSPECTIONS

A. Construction Commencement

1. Pre-Construction Meeting

The Review Board may require a pre-construction meeting prior to starting clearing, excavation, construction or land altering activity by the permittee. The applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the Review Board to review construction sequencing and the permitted plans and their implementation.

2. Notice of Construction Commencement

The applicant must notify the Review Board two (2) business days prior to the commencement of construction. In addition, the applicant must notify the Review Board two (2) business days prior to construction of critical components of any stormwater management facility.

3. A copy of the approved and signed plans and permits for a SMP shall be kept on the construction site at all times.
4. The Review Board shall be granted the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Review Board, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this Regulation and may make or cause to be made such examinations, surveys, or sampling as the Review Board

1 deems necessary, subject to the constitutions and laws of the United States and the
2 Commonwealth.

3 B. Erosion and Sediment Control Inspections

- 4 1. To ensure erosion control practices are in accordance with the filed ESC Plan, erosion
5 control inspections will be conducted by the site owner or an authorized
6 representative at least once every fourteen (14) calendar days and within 24 hours of
7 the end of a storm event of 0.5 inches or greater, from the start of construction until
8 the site is permanently stabilized. Inspection frequency may be reduced to at least
9 once a month if the site is temporarily stabilized, runoff is unlikely due to winter
10 conditions (e.g., site is covered with snow, ice, or the ground is frozen), or if
11 construction is occurring during seasonal dry periods. The permittee is required to
12 notify the Review Board of any change in inspection frequency, including termination
13 of inspections due to site stabilization.
- 14 2. Inspections must include all areas of the site disturbed by construction activity and
15 areas used for storage of materials that are exposed to precipitation. Inspectors must
16 look for evidence of, or the potential for, pollutants entering the stormwater
17 conveyance system. Sedimentation and erosion control measures identified in the
18 ESC Plan must be observed to ensure proper operation. Discharge locations must be
19 inspected to ascertain whether erosion control measures are effective in preventing
20 significant impacts, where accessible. Where discharge locations are inaccessible,
21 nearby downstream locations must be inspected to the extent that such inspections are
22 practicable. Locations where vehicles enter or exit the site must be inspected for
23 evidence of off-site sediment tracking.
- 24 3. For each inspection required by the Review Board, an inspection form must be
25 completed by the site owner or an authorized representative with the following
26 information, at a minimum:
- 27 a. The inspection date;
- 28 b. Names, titles, and qualifications of personnel making the inspection;
- 29 c. Weather information and a description of any discharges occurring at the time of
30 the inspection;
- 31 d. Weather information for the period since the last inspection (or since
32 commencement of construction activity if the first inspection) including a best
33 estimate of the beginning of each storm event, duration of each storm event,
34 approximate amount of rainfall for each storm event (in inches), and whether any
35 discharges occurred;
- 36 e. Location(s) of discharges of sediment or other pollutants from the site;
- 37 f. Location(s) of BMPs that need to be maintained;
- 38 g. Location(s) of BMPs that failed to operate as designed or proved inadequate for a
39 particular location;
- 40 h. Location(s) where additional BMPs are needed that did not exist at the time of
41 inspection;

- i. Corrective action required including any changes to the Erosion and Sediment Control Plan necessary and implementation dates;
 - j. Documentation to confirm/verify adequate repair/replacement to address former corrective actions; and
 - k. Photographs to document conditions before, during, and after the inspection.
4. If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (Construction General Permit), then the permittee is required to submit all Inspection Reports to the Review Board upon request. If the Inspection Reports meet the requirements of the Construction General Permit, it will be considered equivalent to the Erosion Control Inspection as described above.
5. A record of each inspection and of any actions taken must be retained for at least three (3) years from the date of completion of the project. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with this permit.
6. All erosion and sediment control measures and other protective measures identified in the ESC Plan must be maintained in effective operating condition. If site inspections identify BMPs that are not operating effectively, maintenance shall be performed before the next storm event or no longer than seven days from the date of inspection, whichever is sooner, in order to maintain the continued effectiveness of stormwater controls.

C. Construction Inspections

1. At their discretion, the Review Board, may require periodic inspections of the stormwater management system construction by a Professional Engineer or other qualified personnel to ensure compliance with the conditions of the SMP, and overall effectiveness and functioning of the system.
2. All inspections performed by the applicant or their designee shall be documented and written reports prepared that contain the following information:
 - a. The date and location of the inspection;
 - b. Names, titles, and qualifications of personnel making the inspection;
 - c. Whether construction is in compliance with the approved Stormwater Management Plan;
 - d. Variations from the approved construction specifications; and
 - e. Any other variations or violations of the conditions of the approved Stormwater Management Plan.
3. The Review Board may inspect the project site at the following stages, at a minimum:
 - a. Initial Site Inspection: Prior to approval of any plan.

- b. ESC Inspection: to ensure erosion and sediment control practices are in accord with the approved plan.
- c. Stormwater Management System Inspection: An inspection of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
- d. Final Inspection
 - i. After the stormwater management system has been constructed and before the surety has been released, applicants may be required to submit a Record Drawing(s) certified by a Massachusetts–licensed Professional Engineer and Massachusetts–licensed Professional Land Surveyor for any stormwater management facilities or practices constructed in compliance with a SMP issued for the project.
 - ii. The Review Board shall have the right to inspect the system to confirm the features in the Record Drawings. This inspector may also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate, he shall so report to the Review Board, which will issue a Certificate of Completion. Record Drawings shall be full–size plans which reflect the conditions of a project following construction, including all final grades, developed by a Massachusetts–licensed professional engineer and Massachusetts–licensed professional land surveyor. All changes to the approved project design should be recorded in red ink and initialed by a Massachusetts–licensed professional engineer and Massachusetts–licensed professional land surveyor on plans to define changes made. All work deleted, corrections in elevations, and changes in materials should also be shown on the Record Drawings in red ink.

4. System Requiring Corrective Actions

- a. If the system is found to be inadequate by virtue of physical evidence of operational failure, the applicant shall correct it before the Certificate of Completion is released. If the applicant fails to act, the Review Board may use the surety bond to complete the work.
- b. If the Review Board determines that there is a failure to comply with the plan, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. A “Stop Work Order” shall be issued until any violations are corrected and all work previously completed has received approval by the Planning Board.

D. Post-Construction Inspection and Maintenance

1. Maintenance Responsibility

- a. The owner of stormwater management facilities and designated responsible parties included in the SMP and Maintenance Agreement are responsible for conducting ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the operation and maintenance agreement, the plan, and these Stormwater Management Regulations.

- b. The owner of the property on which work has been done pursuant to these Regulations for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with the approved plans.
2. Maintenance Inspections
- a. All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of these Regulations and accomplishment of its purposes as specified in the O&M Plan and Maintenance Agreement described under §7.0B of these Regulations.
- b. At a minimum, inspections shall occur during the first year of operation, and at least every two (2) years thereafter or more frequently as deemed necessary. In addition, a Maintenance Agreement as specified under §7.0B of these Regulations shall be executed for privately-owned stormwater management systems that specifies the Responsible Party for conducting long-term inspections.
- c. Inspection reports shall be submitted to and maintained by the Review Board for all stormwater management systems within one (1) month following an inspection. Inspection reports for stormwater management systems shall include:
- i. The date of inspection;
 - ii. Name of inspector;
 - iii. The condition of each BMP, including components such as:
 - a) Pretreatment devices
 - b) Vegetation or filter media
 - c) Fences or other safety devices
 - d) Spillways, valves, or other control structures
 - e) Embankments, slopes, and safety benches
 - f) Reservoir or treatment areas
 - g) Inlet and outlet channels and structures
 - h) Underground drainage
 - i) Sediment and debris accumulation in storage and forebay areas (including catch basins)
 - j) Any nonstructural practices
 - k) Any other item that could affect the proper function of the stormwater management system; and
 - iv. Description of the need for maintenance.
3. Right-of-Entry for Inspection – The terms of the inspection and maintenance agreement as specified in §7.0B of these Regulations shall provide for the Planning Board or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Review Board, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under these Regulations and may make or cause to be made

1 such examinations, surveys, or sampling as the Planning Board deems necessary,
2 subject to the constitutions and laws of the United States and the Commonwealth.

- 3 4. Records of Maintenance and Repair Activities – Parties responsible for the operation
4 and maintenance of a stormwater management facility shall provide records of all
5 maintenance and repairs to the Review Board, upon request. Parties responsible for
6 the operation and maintenance of a management facility shall make available all
7 records of the installation and of all maintenance and repairs, and shall retain the
8 records for at least three (3) years following final inspections and/or repairs. These
9 records shall be made available to the Review Board during inspection of the facility
10 and at other reasonable times upon request.
- 11 5. Failure to Maintain – If responsible party fails or refuses to meet the requirements of
12 the O&M Plan, the Review Board, after sixty (60) days written notice (except, that in
13 the event the violation constitutes an immediate danger to public health or public
14 safety, 24-hours notice shall be sufficient), may correct a violation of the approved
15 plans or maintenance requirements by performing the necessary work to place the
16 facility or practice in proper working condition. After notification is provided to the
17 owner, the parties responsible for carrying out the maintenance plan shall have thirty
18 (30) days or other time frame mutually agreed to between the Review Board and the
19 parties responsible for carrying out the maintenance plan to correct the deficiencies.
20 The Review Board shall then conduct a subsequent inspection to ensure completion
21 of repairs.

22 23 **11.0 SURETY**

24 Prior to the start of land disturbance or construction activity, the Review Board may require the
25 applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security,
26 when deemed appropriate. The form of the surety shall be approved by the Town Treasurer, and
27 be in an amount deemed sufficient by the Review Board to ensure that the work will be
28 completed in accordance with the SMP. If the project is phased, the Review Board may release
29 part of the surety as each phase is completed in compliance with the SMP, but the surety may not
30 be fully released until the Review Board has received the final inspection report as required by
31 §10.0(C) of these Regulations and has issued a Certificate of Completion.

32 33 **12.0 CERTIFICATE OF COMPLETION**

- 34 A. Within ninety (90) days of completion of construction, the Review Board may require the
35 submission of Record Drawing(s) prepared by a Massachusetts-licensed professional
36 engineer and Massachusetts-licensed Professional land surveyor, certifying that the
37 completed project is in accordance with the approved plans and specifications.
38 Furthermore, the Review Board may require construction inspection reports sufficient to
39 adequately document compliance, when necessary.
- 40 B. The Review Board will issue a Certificate of Completion upon determining that all work
41 of the SMP has been satisfactorily completed in conformance with the approved plan.

1 **13.0 PROJECT DELAY**

2 Should a development activity associated with an approved plan in accordance with these
3 Regulations not begin within 12 months following permit issuance, the Review Board may
4 evaluate the existing stormwater management plan to determine whether the plan still satisfies
5 local program requirements and to verify that all design factors are still valid. If the Reviewing
6 Agent finds the previously filed plan to be inadequate, a modified plan shall be submitted and
7 approved prior to the commencement of development activities. If the project associated with an
8 approved SMP granted under the Bylaw has not been substantially completed within three (3)
9 years of permit issuance, a new permit or a permit extension will be required by the Review
10 Board.

11
12 **14.0 WAIVERS**

13 A. The Review Board may in its discretion and after due consideration decide to waive and
14 exempt strict compliance with any requirement of the Town of Brewster Stormwater
15 Management Bylaw and these Regulations, where it makes a written finding that such
16 action is:

- 17 1. Allowed by federal, state and local statutes and/or regulations;
18 2. In the public interest; and
19 3. Consistent with the purpose and intent of the Town of Brewster Stormwater
20 Management Bylaw.

21 B. Any applicant shall submit a written request to be granted such a waiver. Such a request
22 shall be accompanied by an explanation or documentation supporting the waiver request
23 and demonstrating that strict application of the Stormwater Management Bylaw does not
24 further the purposes or objectives of the Bylaw.

25 C. All waivers requested shall be discussed and voted on at the public hearing for the
26 project.

27 D. If in the Review Board's opinion, additional time or information is required for review of
28 a waiver request, the Review Board may continue a hearing to a date announced at the
29 meeting. In the event, the applicant objects to a continuance, or fails to provide requested
30 information, the waiver request shall be denied "without prejudice."

31 E. Waivers described herein shall not constitute an exemption from any applicable federal or
32 state permitting requirements.

33
34 **15.0 ENFORCEMENT**

35 Enforcement powers of the Review Board are granted in the Stormwater Management Bylaw,
36 §999-10.

37 A. The Review Board or an authorized agent of the Review Board shall enforce the Bylaw,
38 Regulations, orders, violation notices, and enforcement orders, and may pursue all civil,
39 criminal and non-criminal remedies for such violations.

40 B. Notices and Orders

- 1 1. The Review Board or an authorized agent of the Review Board may issue a written
2 notice of violation or enforcement order to enforce the provisions of the Bylaw or the
3 Regulations there under, which may include requirements to:
 - 4 a. Cease and desist from construction or land alteration activity until there is
5 compliance with the Bylaw and the SMP;
 - 6 b. Repair, maintain; or replace the stormwater management system or portions
7 thereof in accordance with the O&M Plan;
 - 8 c. Perform monitoring, analyses, and reporting;
 - 9 d. Fix adverse impact resulting directly or indirectly from malfunction of the
10 stormwater management system.
- 11 2. If the Review Board or an authorized agent of the Review Board determines that
12 abatement or remediation of adverse impacts is required, the order may set forth a
13 deadline by which such abatement or remediation must be completed. Said order
14 may further advise that, should the violator or property owner fail to abate or perform
15 remediation within the specified deadline, the Review Board or an authorized agent
16 may, at its option, undertake such work, and the property owner shall reimburse the
17 Review Board for expenses incurred.
- 18 3. Within thirty (30) calendar days after completing all measures necessary to abate the
19 violation or to perform remediation, the violator and the property owner shall be
20 notified of the costs incurred by the Town of Brewster including administrative costs.
21 The violator or property owner may file a written protest objecting to the amount or
22 basis of costs with the Review Board within twenty (20) calendar days of receipt of
23 the notification of the costs incurred. If the amount due is not received by the
24 expiration of the time in which to file a protest or within twenty (20) calendar days
25 following a decision of the Review Board affirming or reducing the costs, or from a
26 final decision of a court of competent jurisdiction, the costs shall become a special
27 assessment against the property owner and shall constitute a lien on the owner's
28 property for the amount of said costs. Interest shall begin to accrue on any unpaid
29 costs at the statutory rate provided in G.L. Ch. 59, § 57, after the twenty-first (21st)
30 calendar day at which the costs first become due.
- 31 C. Any person who violates any provision of the Town of Brewster Stormwater
32 Management Bylaw, or these Regulations, order or permit issued there under, may be
33 ordered to correct the violation and/or shall be punished by a fine of not more than \$200.
34 Each day or part thereof that such violation occurs or continues shall constitute a separate
35 offense.
- 36 D. Non-Criminal Disposition
37 As an alternative to criminal prosecution or civil action, the Town of Brewster may elect
38 to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D. The
39 penalty for the 1st violation shall be \$200. The penalty for the 2nd violation shall be
40 \$500. The penalty for the 3rd and subsequent violations shall be \$1000. Each day or part
41 thereof that such violation occurs or continues shall constitute a separate offense.
- 42 E. Remedies Not Exclusive

1 The remedies listed in the Bylaw and these Regulations are not exclusive of any other
2 remedies available under any applicable federal, state or local law.
3

4 **16.0 SEVERABILITY**

5 A. The invalidity of any section or provision of these Stormwater Management Regulations
6 shall not invalidate any other section or provision hereof.

7 B. These Regulations shall not interfere with or annul any other bylaw, rule, regulation or
8 permit when the aforementioned specifically states that it is controlling. However, when
9 any other bylaw, rule, regulation or permit does not specifically state that it is controlling,
10 these Regulations, if more stringent, shall govern.
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